

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Greg B. Hale, et al.	Examiner:	Scott Beliveau
Serial No.:	10/692,513	Group Art Unit:	2611
Filed:	October 24, 2003	Docket No.:	54317-022501
Title:	STREAMING OF DIGITAL DATA TO A PORTABLE DEVICE		
Customer No.:	46560		

DECLARATION

I, Christopher Darrow, do hereby declare as follows:

1. I am a registered United States Patent Attorney at Greenberg Traurig LLP and was responsible for the preparation and filing of United States Provisional Patent Application Number 60/421,255, filed on October 25, 2002, the priority provisional application to the above-identified nonprovisional application.

2. One of my clients has been Disney Enterprises, Inc., since prior to April 2002.

3. All of the documents provided as exhibits to this declaration were created in the United States and/or memorialize events that took place in the United States.

4. This declaration is submitted in support of the above-identified Applicants' Declaration under 37 CFR 1.131 filed on September 11, 2006, establishing conception of Applicants' claimed invention prior to September 3, 2002, and further establishing diligence toward the constructive reduction to practice of the invention(s) claimed in the above identified application from prior to at least September 3, 2002 to the filing of Applicants' priority provisional application filing date of October 25, 2002.

5. On April 22, 2002 I received an email, a copy of which is attached hereto as **Exhibit 1**, from Disney attorney Don Wenskey indicating that a new Invention Disclosure was being sent by overnight mail.

6. The Invention Disclosure described in the e-mail is attached as Exhibit A to the Inventors' Declaration under 37 CFR 1.131, which was filed September 11, 2006 in support of the above-identified application.

7. I began preparation of a draft United States provisional application on April 24, 2002 based on this Invention Disclosure. A record that shows my time spent on this application on this date and on several subsequent dates, under Disney Matter No. 054317.011200, is attached hereto as **Exhibit 2**.

8. On May 10, 2002, I sent a preliminary draft provisional application to Don Wenskay via e-mail. A copy of the e-mail and preliminary draft is attached hereto as **Exhibit 3**. My time spent in preparing this draft is reflected on **Exhibit 2**.

9. On May 21, 2002, Don Wenskay faxed to the inventors a copy of the preliminary draft provisional application for review. A copy of this transmittal is attached hereto as **Exhibit 4**.

10. On May 30, 2002, we discussed the drawings and disclosure related to this case with the inventors, per notes attached hereto as **Exhibit 5**, and the following day found out that Don Wenskay needed the figures 1, 2, and 3. See handwritten note **Exhibit 6**.

11. On June 18, 2002, I transmitted the three figures referred to in the preliminary draft provisional application to Don Wenskay. A copy of this transmittal with figures 1, 2, and 3 is attached hereto as **Exhibit 7**.

12. Sometime between May 30 and July 17, 2002, I received the April 25 version of the Invention Disclosure, Rev. 3, attached hereto as **Exhibit 8**. On or about July 17, 2002, I opened matter 054317.022500 specifically for continued preparation of this provisional application. A copy of the time charges for this matter during 2002 is attached hereto as **Exhibit 9**.

13. Between July 17 and August 8, 2002 I examined the revised Invention Disclosure, searched prior art, discussed the invention with the inventors and Don Wenskay, and finally provided guidance to our patent agent Margo Maddux in revising and refining the draft provisional application as evidenced by time charges during this time set forth in Exhibits 2 and 9.

14. On or before August 8, 2002 I assigned Margo Maddux the drafting responsibility for preparation of the revised provisional application including differentiating between a prior filed provisional application, filed in December 2001, and the present invention, and she added this matter to her ongoing list of tasks to complete, and studied the prior art.

15. On at least August 22, 2002, Ms. Maddux asked one of the inventors via e-mail to assist her in understanding the invention differences between related cases. A copy of this e-mail request is attached hereto as **Exhibit 10**. Subsequently, Ms. Maddux at least spoke with one of inventors on October 10, 2002, as evidenced by the note on the copy of the email of **Exhibit 10**, and by her time charges set forth on **Exhibit 9**.

16. As Ms. Maddux's supervising attorney I recall that Ms. Maddux had a number of applications being drafted at any one time. During the period between August 8, 2002 and October 10, 2002, when, according to the time entries in **Exhibits 2** and **9**, significant drafting and review efforts began in earnest, the task of drafting the application remained active on Ms. Maddux's task list. At no time was activity on this matter suspended either by us at Greenberg Traurig, or by Disney personnel.


17. In the normal course of business at a law firm such as Greenberg Traurig, each patent attorney and agent handles a large docket of matters. Typically, where there are higher priority matters to be attended to at any given time, a matter of moderate priority may await action in the agent or attorney's active docket, or intermittently worked on, until such time as is available for the task to be conducted and completed. The attached **Exhibits 2** and **9** in particular clearly show that such activity was active and on going throughout the period from the date of reception of the Invention Disclosure in April 2002 until the filing date of the provisional

application, which was October 25, 2002. It is therefore my assessment that we, the attorneys and agents working on preparation of the application, were demonstrably diligent throughout this period.

18. The integrity of Greenberg Traurig LLP's files and records have been maintained since at least April 19, 2002. These records have not been altered in any way following the date of each entry. Portions of **Exhibits 2** and **9** have been redacted, however, to remove those items that have no bearing on the present Declaration.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that willful false statements or the like may jeopardize the validity of the application or any patent issuing thereon.

Date:

June 4, 2007
Christopher Darrow